IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 23RD MARCH 2007 / 2ND CHAITHRA 1929

Crl.Rev.Pet.No. 1259 of 2007()

CRA.250/2004 of ADDL.SESSIONS FAST TRACK COURT (ADHOC)-IV, TRIVANDRUM
ST.4289/2003 of JUDL. MAGISTRATE OF FIRST CLASS-IV (MOBILE), TRIVANDRUM

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REVN. PETITIONER: PETITIONER

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1. M/S PALAKKAD ROLLER FLOUR MILLS PVT.LTD, KOOTTANIPORUVEMBU ROAD, KINNASSERY POST, PALAKKAD - 678 707 - REPRESENTED BY ITS MANAGING DIRECTOR A.AYOOBKHAN.

2. A.AYOOBKHAN, MANAGING DIRECTOR, M/S PALAKKAD ROLLER FLOUR MILLS PVT.LTD., KOOTTANIPORUVEMBU ROAD, KINNASSERRY POST, PALAKKAD - 678 707.

BY ADV. SRI.ANTONY C. ETTUKETTIL

RESPONDENTS: RESPONDENTS

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1. THE KERALA STATE INDUSTRIAL DEVELOPMENT CORPORATION LTD., REGD. OFFICE AT KELTRON ROAD, KAWDIAR, THIRUVANANTHAPURAM, REPRESENTED BY ITS SENIOR GRADE ASSISTANT(LEGAL) S.YASHODARA.

2. STATE OF KERALA - REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI. AMJAD ALI, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 23/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J

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CRL. R.P. NO. 1259 OF 2007

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Dated this the 23rd day of March 2007

O R D E R

The 1st revision petitioner-company and the 2nd revision petitioner-Managing Director stand convicted for the offence under section 138 of the Negotiable Instruments Act and sentenced as follows:

> The 1st accused is sentenced to pay a fine of Rs.5,000/- and the second accused to undergo simple imprisonment for one year and both the accused are directed to pay Rs.6,62,632/- as compensation vide section 357(3) Cr.P.C and in default 2nd revision petitioner/2nd accused will undergo simple imprisonment for one month and also to pay a sum of Rs.1,000/- as costs and in default to undergo simple imprisonment for 10 days.

2. The evidence adduced in the matter consisted of the testimony of PW1 and Exts. P1 to P6(b). On behalf of the defence, DW1 the second accused has testified and Exts. D1 and D2 were marked. According to the complainant/respondent the amounts are due towards the loan availed by the revision petitioners from the respondent-Institution for setting up a Roller

Flour Mill. The total loan amount being Rs.81,00,000/-. The case of the revision petitioner is that the cheque was issued at the time when the enterprise set up collapsed for want of raw material and that it was for the above purpose Ext. D2 cheque drawn on State Bank of India, Palakkad branch was issued as security. It was found by both the courts below concurrently that the above version of the accused/revision petitioner stands not established. In the circumstances and in view of the evidences adduced, I find no reason to deviate from the findings of the courts below. There is no scope for interference in exercise of the revisional jurisdiction and the revision petition is liable to be dismissed in limine.

3. Considering the plea of the counsel for the revision petitioners, the sentence is modified, so far as the 2nd revision petitioner/2nd accused is concerned, to imprisonment till rising of the court and to pay a compensation of Rs.6,62,632/- and in default to undergo simple imprisonment for six months. The rest of the sentence is confirmed. The revision petitioners are granted six months time from today onwards to pay the amount

of compensation and fine as well as costs. The 2nd revision petitioner/2nd accused shall appear before Judicial First Class Magistrate-IV(Mobile), Thiruvananthapuram on **24.09.2007** to receive sentence.

The Crl.R.P is disposed of accordingly.

K.R. UDAYABHANU, JUDGE.

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